THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT PETITION No.18086 of 2007

05.11.2007

Between:

Nalla Narasimha Reddy and another.

.. Petitioners

And

Special Court for cases under the A.P.
Land Grabbing (Prohibition) Act, 1982 rep.
by its Registrar, B.R.K.R. Bhavan, Tank Bund,
Hyderabad and three others.

.. Respondents

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AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT PETITION No.18086 of 2007

ORDER: (Per Hon'ble Sri Justice D. Appa Rao)

This is a Writ Petition filed for a writ of mandamus questioning the cognizance that has been taken while entertaining L.G.C No.12 of 2007 on the file of the special Court under A.P. Land Grabbing (Prohibition) Act, 1982 at Hyderabad.

The facts, in brief, are that the respondents 2 to 4 herein filed L.G.C.No.12 of 2007 alleging that the writ petitioners grabbed their land in an extent of Acs.5.00 in Sy.No.36/2, 36/3 and 36/4 of Kachivanisingaram village of Ghatkesal Mandal, Ranga Reddy District. The first petitioner resisted the said application alleging that he was the owner and in possession of Ac.16.10 guntas of land in Sy.No.36 of Kachivanisingaram village having purchased the same under six registered sale deeds. There were no sub-divisions. The allegation that he grabbed the land is false. While so, without hearing his objection as to the very maintainability of the application, the Land Grabbing Court had commenced the trial of the matter by receiving the

affidavit of the first petitioner herein in lieu of chief examination in the said L.G.C. and marked the documents. The matter is of the year 2007 and in fact, there was no hurry in taking up the matter out of turn.

Heard both the learned counsel.

Undoubtedly the Land Grabbing Court while taking cognizance of the matter obviously did not consider whether the facts alleged in the application would constitute land grabbing and whether it could have taken cognizance with the allegations made therein.

The learned counsel for the writ petitioners relied on a decision in this regard reported in **Mohd. Siddiq Ali Khan and others v. Shahsun Finance Limited, Chennai and another**[1] wherein it was held:

> "It is fairly well settled than before a Court of competent jurisdiction takes cognizance of a case, it has to apply its mind to the facts of the case alleged in the petition and the documents annexed thereto. That all the allegations made in the application, even if, to be taken true, do not disclose and satisfy the basic ingredients of any offence, so far as criminal cases are concerned and the cause of action in civil cases, the Court is bound to reject the case."

The fact remains that the writ petitioners did not file any application questioning taking cognizance by the special Court. Unless such an application is filed, it cannot be said that the special Court did not consider the aspect in the matter.

The learned counsel also contended that there was no reason why his case was taken up out of turn, when several old cases have been pending. May be that could not be assailed. The Courts are entitled to take up any matter as it deems fit. However, it should also consider as to why some of the cases are being taken up for expeditious disposal.

In the light of the fact that the petitioners did not file any application as to the maintainability before the special Court, we permit them to file such an application and on such application being filed, the special Court shall dispose of the matter on merits after giving opportunity to both the sides.

The Writ Petition is disposed of in terms of the above directions. No costs.

B. PRAKASH RAO, J

D. APPA RAO, J

5th November 2007.
Chvn.

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[1] **2005 (2) ALD 675 (FB)**